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January 3, 2008

Via Facsimile 914-390-4077 and Express Mail

Honorable Charles L. Brieant  
United States Courthouse for the  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

Re: KG Cornwall, LLC. vs. Beazer Homes Corp., Index No. 07 Civ. 2881

Dear Judge Brieant,

We represent Plaintiff KG Cornwall, LLC. and write in opposition to defense counsel's January 2, 2008 written request to this Court to hold in abeyance depositions that were scheduled at the December 7, 2007 appearance before this Court pending further determination of defendant Beazer's motion for disqualification and partial summary judgment. Counsel's stated reason for the request is inaccurate, misleading and a tactic to delay discovery in the above referenced case.

Initially, at the December 7, 2007 conference I appeared with Ms. Hagemeyer at which time this Court made a tight schedule of disclosure to be completed by January 11, 2008. Moreover, at the December 7, 2007 Court conference, while Ms. Hagemeyer made it clear that she did not want to conduct discovery in an expedited manner, she failed to advise counsel or this Court at the aforesaid conference, at which time the discovery schedule was set, that she planned on bringing the aforesaid motion.

It should also be brought to this Court's attention that Defendants have **not** listed Mr. Dorfman as a witness in either their initial disclosure pursuant to Federal Rules of Civil Procedure 26(a) or in their most recent Responses to Plaintiff's Demand for Witness Information dated December 14, 2007. At all times Defendant's were aware that Mr. Dorfman was the attorney for KG Cornwall, LLC. and escrow agent in the underlying transaction. In addition, Plaintiff's have not listed Mr. Dorfman as a witness in their Rule 26(a) initial disclosure or in response to Defendant's demand for witness information.

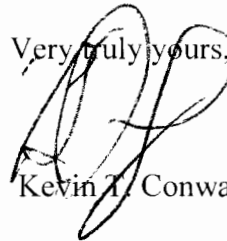
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This case proceeded through a lengthy mediation; all the while, Ms. Hagemeister was fully aware that Mr. Dorfman was the closing attorney for plaintiff as well as escrow agent. Certainly, an attorney representing a seller and acting as escrow agent is not, in and of itself, a conflict. To date, opposing counsel has not advanced any offer of proof that Mr. Dorfman as escrow agent would in any manner offer testimony against his client's interests.

Notwithstanding the aforementioned, we remain ready, willing and able to produce all witnesses as requested by Ms. Hagemeister and to do so prior to the initially scheduled Court conference of January 11, 2008. We were just informed that the Court conference was adjourned to January 25<sup>th</sup>, 2008 (even after having advised Ms. Hagemeister that we would not consent to an adjournment; a fact omitted from her January 2<sup>nd</sup>, 2008 letter to this court.) It should also be noted that on December 20<sup>th</sup>, 2007 this firm advised Ms. Hagemeister that while we did respond to lengthy demands for documents we were not in possession of her demand for interrogatories. This demand for interrogatories consists of only eight (8) posed questions, which was only provided to this office as of yesterday's date; which we are serving our response today.

Based upon the foregoing, we respectfully request the Court deny Ms. Hagemeister's application to delay the previously set discovery schedule, and that the depositions proceed as scheduled this Monday, January 7, 2008.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin T. Conway", written over the typed name.

Kevin T. Conway [KG 3347]

Cc: Luisa K. Hagemeister (212)798-6354